



Passenger Focussed Franchising

October 2010

Passenger Focussed Franchising

Passenger Focus is an independent public body set up by the Government to protect the interests of Britain's passengers.

We welcome the opportunity to respond to DfT's consultation (Reforming Rail Franchising). Our comments are grouped into two sections: general comments about the policy and specific comments on the questions asked in the consultation document.

We note that the document specifically excludes fares policy so we have refrained from commenting on such issues in this submission. DfT will be aware, however, of Passenger Focus's work on fares, ticketing and value for money and we look forward to discussing these with DfT as part of its continuing review of rail.

1. General comments

Passengers do not exist in a vacuum. They know that tough decisions on public spending are being made and that transport will not be immune. It is important, however, to ensure that the process does not marginalise the ultimate customer. It is passengers who will be travelling on services and who will pay the fares - so it is right and proper that their views are taken into account when determining the future priorities for rail.

We are concerned that the proposed franchising policy does not make any explicit mention of, or commitment to, passenger engagement in the process. As it stands, it reads as if the Government and the bidders alone will decide what passengers want. Government clearly has a right to decide on what and where it wishes to spend taxpayers' money. Some will be in furtherance of national policy but there are also many aspects of a franchise which require a good knowledge of local conditions and challenges. Bidders will be able to fill some of these gaps but they cannot be a proxy for passengers themselves - a TOC's view of its own commercial interest may directly conflict with the best outcomes for passengers. There is simply no substitute for involving those who actually use the services in the planning of those services.

Existing franchising policy recognises the value of this wider engagement. The 2007 White Paper 'Delivering a Sustainable Railway' gave Passenger Focus a greater role in commenting on the specification of franchises. The Southern franchise was used as a pilot. We broke the franchise down into eight routes and surveyed over 6000 passengers in total to get a proper picture of their priorities on a route-by-route basis. We also canvassed the views of local groups and organisations – giving them an enhanced voice too. The results were used by DfT to help inform the specification and by the bidders when responding to it. The involvement of Passenger Focus (and through them of passengers) was recognised to be very helpful. We have since carried out similar exercises for the Essex Thameside, Greater Anglia and East Coast franchises.

Such engagement is entirely consistent with the 'Big Society' concept outlined in the Coalition Agreement. It is more than just ensuring that the franchise is based around what

passengers want (important as this is); it also gives a chance for passengers to set out what they want in the way of transparency and accountability throughout the life of the franchise. Transparency begins with the specification rather than with delivery.

We feel that the process of franchising will suffer if passengers are excluded from the process. We firmly believe that such engagement produces better results and is ultimately better value for money all round. Passenger Focus – with its independent, evidence-based approach - is in a unique position to both capture these views and ensure that they are heard.

2. Specific consultation questions

2.1 Franchise specification

Q1. Is the suggested model of specification practical and would it deliver good outcomes for passengers and taxpayers? What are the key unresolved issues? Are there alternative models that work better, and what are these?

Q2. What factors should be considered in determining franchise length?

Q3. Would the proposal to supply an initial “affordability” figure for premium or subsidy help bidders submit realistic proposals?

Passenger Focus agrees that longer franchises (12-15 years) could bring advantages. However, length in itself is no guarantee of success. Research¹ published by DfT showed that there was no conclusive evidence of the impact of contract length on performance. The success of a franchise depends on more than simply how long it lasts: the quality of the management, for instance, is arguably of as much importance as franchise length. It is important that these other factors are not lost and that we do not become pre-occupied with length alone.

We do not favour a one-size-fits-all approach to franchise length. There will be instances when the existing franchise template does not ‘fit’. We believe that there is a continuing need to look at each franchise on its merits. Among the factors that we feel should influence the length are:

- Plans/desire to merge the franchise with another (having the same end/start date would make this easier)
- The degree of planned disruption envisaged - ensuring continuity of management could help minimise the impact on passengers arising from major upgrade work (e.g. Thameslink).
- Major investment (the argument again being about continuity of delivery)

There may even in some instances be an argument for looking at the performance of the existing operator with a view towards a permanent concession style of operation i.e. if performing well, you keep going. Such concessions could support longer-term planning and save cost and management effort in franchise bidding. In theory

¹ Rail Franchising Policy: Analysis of Historic Data. KPMG for DfT. January 2010

concessions could even be traded thus creating greater potential for attracting capital investment from the operator. Clearly though, there would need to be some mechanism for incentivising good performance and for mirroring the type of passenger enhancements that arise from the 'taking the franchise to market' model.

However, any move towards longer franchises makes it absolutely essential that there is a robust mechanism for removing poorly-performing operators. It would be unacceptable for passengers to have to wait for the contract to expire before getting rid of an under-performing operator. Traditionally franchise targets have tended to focus on the relatively 'hard' measures of punctuality and crowding. We have argued that service quality is also important - and becomes even more so in the context of longer-franchises. For instance, it is possible for a train company to meet its punctuality and cancellation targets whilst offering a poor passenger experience e.g. dirty trains, unhelpful staff, not keeping passengers informed.

We believe a franchise should have such targets and that they should count towards any assessment of a TOC's suitability to continue. In a competitive market the consumer will 'vote with his/her feet' if they do not like the quality of the product on offer. There isn't much competition or choice within the rail sector, nor is there sufficient capacity to allow new operators to enter the market to create choice. In the absence of such competition there is a need for regulation to engender similar levels of accountability and responsibility.

The Southern franchise provides a good example of what can be done. It contains passenger satisfaction targets for Customer Service, Train and Station measures. If the TOC fails to meet the required targets it must produce an action plan designed to rectify it and/or face a potential fine. As well as driving up the quality of service provided, this also promotes a greater sense of accountability between service provider and consumer. Moreover there is no additional cost in producing and monitoring the passenger satisfaction measures used in the Southern franchise as they use Passenger Focus's existing National Passenger Satisfaction Survey (NPS).

One of the key difficulties of letting longer-term franchises is in ensuring that they are built on accurate long-term forecasts. We have questioned the accuracy of forecasts submitted during the bidding stage, especially those concerning demand/revenue projections. Unrealistic revenue projections designed to win a franchise can then restrict/threaten the viability of the franchise, as can significant but unforeseen changes in demand.

We welcome the fact that the consultation document recognises these risks and sets out a number of options to address them. While Option A – Train Operating Companies (TOCs) take full risk – could help prevent unrealistic bids in the first place, it will not cater for those times when the TOC is hit by unforeseen circumstances. It is hard to see how any TOC could have accurately predicted events over the past 15-years. The recent recession, for example, was not within the control of the industry nor was it easily predictable. The risk, from a passenger perspective, is that we end up

with a train company 'limping' along, slashing costs and services to the bare, regulatory minimum. Hence, we do see merit in allowing the forecasts to be re-assessed in response to significant changes that are outside the control of the industry.

2.2 Franchise procurement

Q4. What are the benefits and downsides to the procurement process outlined in the document?

Q5. How can we reduce the complexity of bidding, while still protecting taxpayers and passengers (especially given a greater focus on quality)?

The document suggests inviting bidders to help inform the specification (even after issuing the Invitation to Tender) rather than simply requiring them to 'cost' the Government's specification. Reducing the cost of bidding is a sensible objective, as is inviting the private sector to use its skills/initiative in identifying new/better ways of operating. However, the acid test will be in terms of what specification passengers end up with – a subject covered in more depth below.

One way to possibly reduce the cost of bidding is to address the legal fees incurred by bidders – likely to be a large part of the bid's cost. Establishing areas where questions – and hence answers – are likely to be common to all participants could help to reduce the individual costs incurred by each bidder.

There is also the question of accountability/transparency to passengers arising from changes being made to the published ITT/specification. If the process is to be open then it will need to address such issues.

2.3 Contract design and management

Q6. What services, outcomes and commitments should be contracted?

Q7. What is the best way to structure outcome measures based around passenger satisfaction levels?

Q8. What sanctions should be used to ensure operators deliver their commitments, including outcome measures?

Q9. What level of performance bond and/or parental guarantees are appropriate?

2.3.1 Minimum specification

We believe that the specification is the key to the entire franchising process. We understand the arguments advanced by the rail industry about micro-management hindering the ability of the private sector to innovate. Clearly they would favour as free a hand as possible. However, if nothing is specified how do you monitor a TOC's performance? How, in the worst case, would you remove a TOC for poor performance if there were no standards? How does Government ensure it gets what it pays for with taxpayers' money unless it specifies what it wants in the first place? We consider there is a need, therefore, for the Government/DfT to continue to have a strong role in

specifying franchises. Not everything can be delivered through incentives alone; there are times when DfT will need to 'encourage' action via the specification.

As a minimum we would expect the specification to give a broad outline of the core service to be provided: frequency, first and last trains, basic service patterns, and key journey times.

2.3.2 *Targets*

The specification also needs to include performance targets.

- 'Hard' targets

We believe there is still a need for the traditional 'hard' performance targets covering punctuality, reliability and crowding. However, we believe that there is a need for much more transparency surrounding these targets.

Transparency generates greater accountability. Giving rail passengers access to performance figures will help them to hold the train company to account and to ask what is being done to improve services in return for the fares they pay. Good management should not feel threatened by this. Indeed the availability of accurate data may actually help them – a particularly bad journey can linger in the memory and distort passengers' perceptions. Accurate, relevant data can help challenge these negative perceptions.

However, punctuality data is currently only provided at an overall TOC level which can easily mask significant differences between routes within the same TOC. Providing performance data at a route/service group level would help prevent this and focus attention on areas that need improving. It is important to stress that this information already exists – it would not involve any new costs in terms of data gathering.

Equally, there is currently next to nothing in the public domain about crowding. This is another fundamental aspect of a passenger's journey and an area where greater transparency can again generate improvements for passengers.

The franchise policy review gives an opportunity to address both these issues.

In the longer term we also see value in looking more closely at the choice of performance measurement used. The existing measure (PPM) allows a five or 10 minute leeway on late arrivals – a train is not late until it exceeds these allowances. However, we know from our research² mapping passenger satisfaction against train performance that a delay begins to have an effect on passengers well before that. This might mean addressing the suitability of the current thresholds or even of introducing a secondary measure based on right-time arrival. We hope to discuss these issues as part of the debate surrounding the metrics to be used for the next High Level Output Statement (HLOS2).

² Towards a 'right time' East Anglian railway. Passenger Focus. March 2010

Network Rail's performance clearly has a huge bearing on a TOC's punctuality and yet a franchise agreement typically only creates an obligation on factors within the train company's control. Clearly there are limits to how far one organisation is willing to be held accountable for another's performance but, from a passenger's perspective, it is overall punctuality that matters not just how well the train company did. There are obvious benefits in aligning TOC and Network Rail incentives and there is much work going on to address this - not least in terms of joint improvement performance plans. We would like to see the franchising process encourage and cement this joint working approach. To this end we would ask DfT to consider the scope for introducing joint targets within a franchise.

- 'Soft' targets

We have long advocated more use of qualitative targets within a franchise. Our strong preference is for targets based on what passengers think – the best judge of quality being those who have used the services in question.

We were pleased that our work on the Southern franchise led to the use of passenger satisfaction targets within the Southern Franchise. This established three bespoke targets (for station, train and customer-service attributes) backed up with an enforcement regime that could result in fines being levied if targets were missed. Basing this on the existing NPS survey also means it does not incur any additional costs to gather the data.

We are pleased that the consultation acknowledges the importance of passenger satisfaction targets within the franchise. We are pleased that the consultation acknowledges the importance of passenger satisfaction targets within the franchise. The National Passenger Survey (NPS) is ideally suited to capture this information. NPS has a large sample size covering some 25,000 passengers each wave. The sampling plan ensures that it is representative of day of travel, journey purpose (commuter, business and leisure), train company and, of course, by a range of demographic attributes (age, sex, ethnicity etc). We are now working on breaking down the TOC level analysis into constituent building-blocks to provide even more functionality.

NPS is arguably the longest, continuous data source in use in the rail industry and, by virtue of being carried out by Passenger Focus, has that crucial stamp of independence. It is also increasingly being used to drive other initiatives - for instance, Network Rail is about to use NPS as its measure of satisfaction at major stations, BTP use it to monitor their performance, and it is increasingly being linked to staff bonus schemes.

In 2006 Robert-Miller Associates (comprising three Fellows of the Market Research Society) conducted an independent review of the NPS, comprising both a technical assessment and feedback from 17 TOCs and 13 other NPS user organisations. Key feedback was:

- “All the people we consulted regard the NPS as an important or essential source of information”
- “There is nothing that is of comparable utility to NPS” (Other)
- “... all the TOCs we spoke to regard the NPS as an essential tool and use it heavily”
- “In terms of customer satisfaction we take it very, very seriously” (TOC)
- “TOC MDs are going to hate being seen to do less well” (TOC)
- “We desperately want the NPS... it’s amazing how much is in it.” (TOC)
- “... we have very much used it as an internal tool to drive up the allocation of resources to where the problem was.” (TOC)

The consultation document proposes gathering satisfaction via a new piece of research despite the criteria set out already being covered by NPS - the principal reason for this duplication being the need for four surveys a year rather than the two conducted by NPS. We would be happy to discuss with DfT how NPS could meet its requirements while avoiding the expense of commissioning and managing an additional piece of research.

2.3.3 *Input vs output measures*

The balance between input and output measures is a fine one. For instance, the franchise could specify that the bidder purchases 50 new ticket vending machines (an input target) or that it increase passenger satisfaction with retailing (an output target). The latter follows the pattern set in the South Central franchise with the bidders setting targets for passenger satisfaction and these becoming contractual targets with fines for non compliance.

Passenger Focus recognises the value of both provided that they are based on passengers’ priorities and needs – which again highlights the importance of involving passengers in the design of the franchise. If DfT’s wish is to ensure that franchises are more responsive to the needs of passengers then they need to involve passengers in the franchising process.

It is also essential that any output targets are set a challenging level. Setting 15-year targets that are easily achieved by the end of the first year would not act as an incentive.

2.4. **Revenue risk**

Q 10. Should the risk inherent in forecasting revenue over a longer period be shared between operators and government, and if so, how? What are the merits or drawbacks of review points? What are the merits or drawbacks of economic indexation compared to the existing revenue support/share or leaving revenue risk entirely with the operator?

This has partly been addressed in the earlier sections.

However, the document also points to the effect of the existing revenue support arrangement (i.e. the potential for operators to receive up to 80% revenue support from the Government if their revenue declines sharply). It argues that operators in revenue support have very little incentive to improve performance, even if the decline in their revenue was caused by factors within their control rather than by external impacts such as a fall in GDP.

We accept that revenue support is one of the more complex issues to address. On the one hand it does indeed create a disincentive for a TOC to act. On the other hand it has undoubtedly stopped TOCs in revenue problems from instantly 'slashing and burning' services and facilities to save money – a form of short-termism that could have long-lasting consequences for passengers.

2.5 Franchise investment

Q11. How can we add to incentive from longer franchises to remove the barriers to private sector investment?

Q12. How can we encourage investments with long payback periods throughout the franchise term, not just at the start?

The consultation sets out two specific areas for consideration:

Capital Investment

Encouraging greater capital investment from franchisees could clearly be of benefit to passengers. We would agree with DfT's analysis that the key to enabling this is to address the issue of residual value. Rail capital investment has long lead times and, frequently, long pay-back periods. While longer franchises may help, they will still not cover long-term assets such as rolling stock unless there is some attempt to tackle the issue of residual value.

Notwithstanding the prize of greater investment and innovation there is also still a need to ensure compatibility between TOCs – e.g. smart-card schemes that 'recognise' other operators' schemes. Local investment must not diminish network benefits.

It is also essential that the importance of investment in less tangible products is not lost. Investment in staff training and in changing culture can have huge benefits to passengers but could be very hard to quantify when trying to calculate residual value. We would not want any new process to discourage such initiatives/investment.

Train companies to have a greater role with stations

The document points out the advantages of operators being given an enhanced role in relation to maintaining and improving stations. It argues that giving operators long-term, full repairing leases, coupled with the aim of increasing capital investment, would improve stations for passengers.

Passenger Focus has been critical in the past of the complex contractual relationship between TOCs and Network Rail and the ridiculous situation whereby each is responsible for 'painting half of the lamp-post.' Simplifying and streamlining relationships makes a great deal of sense, providing that the end specification has the appropriate targets/measures in place to ensure that standards are maintained and enhanced. Greater responsibility must again be balanced with greater accountability.

2.6 Cost control and efficiency

Q14. How can the government incentivise operators to control cost increases over the life of the franchise, and to improve cost efficiency?

The document points out the need for more flexibility within the franchise - the aim being to ensure that TOCs can make changes during the franchise in response to things like changing levels of demand.

Change can be a double-edged sword. For instance, implementing Oyster PAYG in London, station enhancements and adding new trains mid-franchise in response to a surge in demand, are all changes that would benefit passengers. We would want franchises to be sufficiently flexible to allow these to happen rather than to hinder their implementation. If franchises are to be longer then the need for change mechanisms becomes even more important – you cannot set everything in stone for 15 years.

However, change mechanisms can also be used to remove franchise provisions/services. Clearly there are risks. Some are already mitigated by other protections (e.g. the current requirement to consult on booking office opening hours and the statutory processes governing closures); others, however, would be at the discretion of the operator.

One way to mitigate the impact of mid-franchise changes would be to ensure that changes are carried out in an open and transparent manner. Placing the party proposing the change (whether this be the TOC, DfT or Network Rail) under a clear obligation to justify and to consult on any such proposals could help to provide this balance.

**Passenger Focus
2nd Floor
One Drummond Gate
Pimlico
London SW1V 2QY**